

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

FKM USA, LLC,

Plaintiff,

v.

THOMAS INDUSTRIAL ROLLS, INC.,

Defendant.

Case No. 07 CV 7277

**Hon. Judge David H. Coar
Magistrate Judge Geraldine Soat Brown**

MOTION TO EXTEND SCHEDULING CONFERENCE

Plaintiff FKM, USA, LLC ("FKM"), by and through its undersigned counsel, Daniel R. Madock of Klein Dub & Holleb, Ltd., hereby moves to extend the time to enter a scheduling Order and, in support thereof, states as follows:

1. This matter involves a claim for alleged violation of the Lanham Act and certain state law unfair competition claims.
2. Since filing this action on December 27, 2007, the parties have attempted to amicably resolve this dispute.
3. Pursuant to those efforts, the Plaintiff agreed to withhold service of the Complaint so that the parties did not need to incur needless litigation expense.¹
4. The parties' efforts at settlement have been productive and have resulted in a tentative agreement in principle, subject to execution of a definitive Settlement Agreement that is currently being reviewed by the parties, and that will result in the dismissal of this action.

¹ In order to effect service prior to the expiration of the 120 day time period permitted by Rule 4, Defendants acknowledged service on April 20, 2008 and its answer or other responsive pleading is due on June 19, 2008. Consequently, Defendant has not yet retained local counsel to appear for it in this action.

5. On May 1, 2008, the Court extended the time for the settlement to be completed or submission of the proposed Scheduling Order required by the Court's Standing Orders to May 21, 2008.

6. Attached hereto as Exhibits A and B respectively are the parties' Report of Rule 26(f) Conference and Proposed Scheduling Order.

7. However, the parties truly believe that execution of the Settlement Agreement is imminent and respectfully request that the Court extend the time to enter the Scheduling Order to June 1, 2008 if a Stipulation to Dismiss has not been filed by that date.

WHEREFORE, Plaintiff FKM respectfully requests that the Court extend the time of the Scheduling Conference to June 1, 2008 pending submission of a settlement that will provide for dismissal of this action.

FKM USA, LCC

By: /s/ Daniel R. Madock

One of its Attorneys

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EXHIBIT A

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

FKM USA, LLC,

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REPORT OF PARTIES' PLANNING CONFERENCE

Pursuant to this Court's Standing Order, Daniel Madock of KLEIN DUB & HOLLEB representing plaintiff and Alan N. Harris of BODMAN LLP representing defendant met telephonically pursuant to Rule 26 (f) to discuss:

- (1) the nature and basis of their claims and defenses;
- (2) the possibilities for a prompt settlement or resolution of this case;
- (3) to make or arrange for the time for disclosures required under Rule 26(a)(1); and
- (4) to develop a discovery plan.

To that end, the parties propose the following:

- (A) The issues in this case may be simplified by the parties taking the following steps:

Not applicable

- (B) The following modifications to the discovery requirements of the Federal Rules of Civil Procedure or Local Rules should be made in order to expedite discovery:

None

- (C) Discovery will be needed on the following topics:

1. The parties' creation/dissemination and use of the materials on their respective websites and other advertising and marketing relating to their products.

2. The parties' claims in their materials on their website and other means of advertising and marketing.
 3. Damage to each party's business as a result of the other's conduct.
- (D) Discovery should be conducted in phases: fact discovery first and expert discovery to follow.
- (E) Discovery is not expected to be contentious and management of discovery need not be referred to the Magistrate Judge.
- (F) The parties do not consent to this matter being referred to the Magistrate judge for final disposition.
- (G) The parties have discussed the possibility of alternative dispute resolution and concluded that they believe a settlement can be achieved through counsel's efforts.
- (H) The parties have discussed a prompt settlement of this matter without monetary demands and have circulated for review and approval by the clients a proposed Settlement Agreement that would result in dismissal of this action.
- (I) The Court should consider the following methods of expediting this matter:
- None.

Respectfully submitted:

COUNSEL FOR PLAINTIFF

COUNSEL FOR DEFENDANT

EXHIBIT B

**UNITED STATES DISTRICT COURT FOR THE
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FKM USA, LLC,

Plaintiff,

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Defendant.

Case No. 07 CV 7277

Hon. Judge David H. Coar

PROPOSED SCHEDULING ORDER

The parties, by and through their undersigned counsel, Daniel R. Madock of KLEIN DUB & HOLLEB, for the Plaintiff and Alan N. Harris of BODMAN, LLP, for the Defendant, as required by the Court's Standing Order and Fed. R. Civ. P. 26(f), submit the following proposed scheduling order:

1. Discovery

The following time limits and deadlines shall be applicable.

- (A) All disclosures required by Rule 26(a)(1) shall be made on or before June 23, 2008.
- (B) Any amendments to pleadings or actions to join other parties shall be filed on or before July 18, 2008.
- (C) The cutoff of fact discovery is November 21, 2008.
- (D) The parties shall disclose expert testimony pursuant to Rule 26(a)(2) on or before December 19, 2008.
- (E) The parties may depose the other side's expert at any time prior February 2, 2009.
- (F) The parties shall disclose any rebuttal expert pursuant to Rule 26(a)(2)(c) at any time prior to February 16, 2009.
- (G) The parties shall have until March 6, 2009 to depose the opposing party's rebuttal expert(s).

Motions

Any dispositive motion is to be filed on or before December 19, 2009.

Final Pretrial order and Confernce

The final pretrial order shall be filed on or before March 20, 2009.

The final pretrial conference will be held on _____ at _____.m.

Trial

Trial is set in this matter on _____ at 10:00 a.m.

Status Hearings

A further status hearing/preliminary pretrial conference shall be held on _____ at _____ a.m.

ENTER:

Date: _____

DAVID H. COAR
U.S. District Judge